

EXHIBIT 2

In the matter of an arbitration
under the Rules of Arbitration of
the International Centre for
Settlement of Investment Disputes

Case No. ARB/14/22

ICC Hearing Centre
112, avenue Kléber
Paris, 75016
France

Day 1 Monday, 26th March 2018

Hearing on Forensic Expert Evidence

Before:

PROFESSOR GABRIELLE KAUFMANN-KOHLER
PROFESSOR ALBERT JAN VAN DEN BERG
PROFESSOR PIERRE MAYER

(1) BSG RESOURCES LIMITED
(2) BSG RESOURCES (GUINEA) LIMITED
(3) BSG RESOURCES (GUINEA) SARL

Claimants

- v -

THE REPUBLIC OF GUINEA

Respondent

JAMES LIBSON, KAREL DAELE, KATY COLTON, JENNY HINDLEY and MOHAMMED NAZEER, of Mishcon de Reya LLP, and DAVID BARNETT, of Barnea & Co, appeared on behalf of the Claimants.

MICHAEL OSTROVE, SCOTT HORTON and THÉOBALD NAUD, of DLA Piper, and LAURENT JAEGER, YANN SCHNELLER and AGNÈS BIZARD, of Orrick, appeared on behalf of the Respondent.

Secretary to the Tribunal: BENJAMIN GAREL
Assistant to the Tribunal: MAGNUS JESKO LANGER

Transcript produced by Trevor McGowan
Georgina Vaughn and Lisa Gulland
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ALSO APPEARING

FOR CLAIMANTS

MALCOLM COHEN co-administrator of BSGR

ROBERT RADLEY, Radley Forensic Document Laboratory

FOR RESPONDENT

ANDREA LAPUNZINA VERONELLI, DLA Piper

CLÉMENTINE EMERY, DLA Piper

RACHEL GANEM, DLA Piper

MARIE CHEREAU, Orrick

LUCILLE COULON, Orrick

COURT REPORTER

SIMONE BARDOT, French court reporter

INTERPRETERS

SARAH ROSSI, French-English interpreter

CHRISTINE VICTORIN, French-English interpreter

CHANTAL BRET, French-English interpreter

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11:09 1 for their presentation. I think that it would be almost
 2 impossible for them to make this presentation if they
 3 cannot refer back to their slides, because to answer the
 4 criticisms of BSGR, without prejudging what they are
 5 going to say, I imagine they will need to refer back to
 6 the demonstrative exhibit. If they simply repeat what
 7 they said initially, without answering the questions
 8 regarding the differences or variations that were
 9 identified, which is really the main topic of their
 10 presentation -- there is some visual support, visual
 11 material, in their slides. But if their presentation is
 12 much shorter, we would like then to have more time to be
 13 able to ask them some questions, so that we can have
 14 some explanations in their answers to the comments made
 15 by the Claimants.

16 (Pause to resolve a technical problem)

17 THE PRESIDENT: Let's try, and hope that the microphones
 18 will work.

19 In answer to the Respondent's points, the ruling is
 20 that the Tribunal experts should present their report as
 21 they have drafted it, the methods they used,
 22 conclusions, without reference to the critique by the
 23 Claimants; and that can then be addressed, if deemed
 24 appropriate, in questions. And if more time is needed,
 25 then we will allow more time, as long as we keep within

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11:16 1 exhibit, or will the Tribunal and the parties have the
 2 right to refer back to these elements?
 3 THE PRESIDENT: (Interpreted) The decision of the Tribunal
 4 was that the PDF is not part of the record; that the
 5 PowerPoint presentations as such, and for the time
 6 being, are not part of the record. If one expert in
 7 answer to a question refers to a slide, he can do so,
 8 and then that slide is in the record.

9 MR OSTROVE: (Interpreted) Thank you, Madam President.

10 THE PRESIDENT: (In English) The experts said that they
 11 needed some time, because now they are actually asked to
 12 do something they had not prepared for. So when will
 13 they be ready?

14 MR GAREL: I will check. (Pause)

15 THE PRESIDENT: The experts say that they will be ready in
 16 five minutes. So we have a five-minute break.

17 (11.18 am)

18 (A short break)

19 (11.25 am)

20 MR GERALD LAPORTE (called)

21 MR TODD WELCH (called)

22 THE PRESIDENT: Good morning, gentlemen.

23 MR WELCH: Good morning.

24 MR LAPORTE: Good morning.

25 THE PRESIDENT: It's nice to meet you. We are sorry we kept

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11:14 1 reasonable bounds and can complete our programme by
 2 tomorrow night.

3 Is this clear, so we have no misunderstandings about
 4 what we are doing here? On the Respondent's side?

5 MR OSTROVE: (Interpreted) I'm not going to express our
 6 position on this decision right now, because I think we
 7 might have a problem regarding due process, as there is
 8 a submission of the Tribunal experts, in their
 9 presentation they won't be able to answer the
 10 criticisms, they have to review the whole report,
 11 whereas really the point today was to hear their answers
 12 to these criticisms.

13 Something else I had forgotten when we had these
 14 problems with the microphones actually: the experts'
 15 slides, are they going to be part of the file? And
 16 I was wondering how we proceed. Usually, when there is
 17 someone who hands slides to the material as support
 18 material, I imagine it's not part of the proceedings,
 19 it's simply submitted.

20 So I didn't understand the decision of the Tribunal
 21 regarding the status of these slides, as they were
 22 referenced to by the Tribunal experts. I understand if
 23 there are some slides for which there is no reference,
 24 it's not part of the file. But if they refer back to
 25 slide 5, is it included only for the demonstrative

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11:28 1 you waiting so long before we could start hearing you.
 2 For the record, Mr Welch, can you please confirm
 3 that you are Todd Welch?

4 MR WELCH: Yes, I can.

5 THE PRESIDENT: You are a forensic document examiner?

6 MR WELCH: Yes, I am.

7 THE PRESIDENT: Mr LaPorte, you can confirm that you are
 8 Gerald LaPorte?

9 MR LAPORTE: I confirm that I am Gerald LaPorte.

10 THE PRESIDENT: You are a forensic chemist, a document
 11 dating expert?

12 MR LAPORTE: Yes, madam.

13 THE PRESIDENT: And you are both with the firm Riley Welch
 14 LaPorte; is that right?

15 MR WELCH: That's correct.

16 MR LAPORTE: Yes.

17 THE PRESIDENT: So on the request of the Tribunal, you have
 18 established a report that you have submitted to us,
 19 dated 12th February 2018?

20 MR LAPORTE: Correct.

21 THE PRESIDENT: Who wants to take the lead when I ask
 22 questions that are directed to both? It might be easier
 23 that just one of you responds.

24 MR LAPORTE: I'll take the lead.

25 THE PRESIDENT: Good. You are acting, and have acted so

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